

**IN THE UNITED STATES DISTRICT COURT**  
**DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to:

Civil Action No. 0:16-cv-  
03062-JNE-FLN

ANIETA A. MOSES

VS.

3M COMPANY AND ARIZANT  
HEALTHCARE, INC.

**PLAINTIFF’S RESPONSE TO DEFENDANTS’ MOTION TO DISMISS**

COMES NOW the Plaintiff herein, Aneita A. Moses, identified in Defendants’ Motion to Dismiss for Failure to Comply with Pretrial Order No. 14, and by and through undersigned counsel submits this, her Response to Defendants’ Motion to Dismiss, and would respectfully show the Court as follows:

1. The Plaintiff, Aneita Moses, completed her initial Plaintiff’s Fact Sheet on December 26, 2016.
2. After an exchange of letters between counsel, all of the information required as a part of Pretrial Order 14 had been uploaded into the Portal on or about May 15, 2017, with the exception of an updated Verification from the Plaintiff.
3. A Verification had been sent along with a letter to Defendant’s Counsel on or about February 9, 2017, as evidenced by a letter of that date attached to the Declaration of D. Wayne Rogers, Jr., filed herewith, as Exhibit A.
4. Subsequent letters dated March 29, 2017, and May 15, 2017, disputed that there had been any remaining deficiencies after the February 9, 2017 letter. Such letters are attached to the Declaration of D. Wayne Rogers, Jr. as Exhibit B and Exhibit C. (Although the May 15, 2017 letter notes that counsel for the Plaintiff had made efforts to insure that all the information had been received by re-serving the PFS on the Defendant.)
5. Since no substantive changes had been made in the PFS following the February 9, 2017 letter, Plaintiff submits that no subsequent Verification of her statements should have been required.

6. Even so, Plaintiff has now submitted an updated Verification, dated August 15, 2017 and such Verification was both e-mailed to the Defendants' Counsel and uploaded into the Portal on September 15, 2017.
7. Prior to uploading the updated Verification into the Portal on September 15, 2017, our office had made two prior attempts to do so, but had been unsuccessful.
8. The Plaintiff has made no attempt to withhold any information from the Defendants and in fact, the Defendants have had all the information required by Pretrial Order 14 since at least May 15, 2017.

WHEREFORE, the Plaintiff asserts that this action should not be dismissed, as the Defendants have had the information required by Pretrial Order 14, with the possible exception of the updated Verification, since at least May 15, 2017 and any prior defect has now been cured.

Dated:  
September 15,  
2017

Respectfully submitted,

/s/ Annesley H. DeGaris  
ANNESLEY H. DeGARIS  
Attorney for the Plaintiff

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**CERTIFICATE OF SERVICE**

This is to certify that on September 15, 2017 a copy of the foregoing instrument was served on all parties via the Court's electronic filing system.

/s/ Annesley H. DeGaris  
Annesley H. DeGaris